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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
BONJEAN et al.
Application No.: 09/700,043
PCT No.: PCT/EP00/01314
Int. Filing Date: 18 February 2000
Priority Date: 09 March 1999
Attorney's Docket No.: 40770-000117/US
For: BISTABLE MAGNETIC DRIVE FOR A
SWITCH

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: DECISION ON PETITION
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: UNDER 37 CFR 1.181
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This is in response to applicant's "Renewed Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment " filed in the United States Patent and Trademark Office (USPTO) on 25 July 2008 and "Letter To USPTO Submitting Translation Validation Statement Under 37 CFR 1.69(b)" filed via facsimile on 10 October 2008. Applicant requests the withdrawal of the Notification of Abandonment mailed on 08 July 2002, which indicated that applicant had failed to respond to a Notification of Defective Response (Form PCT/DO/EO/916).

BACKGROUND

This decision incorporates by reference the procedural history set forth in the decision mailed on 02 July 2008. That decision dismissed the petition to withdraw the holding of abandonment.

On 25 July 2008, applicant filed a renewed petition along with a copy of the original petition and a USPTO date-stamped postcard receipt. On 10 October 2008, upon request of the undersigned, applicant filed a statement regarding the accuracy of the English translation of the declaration.

DISCUSSION

Applicant requests withdrawal of the holding of abandonment, indicating that a response to the Notification of Defective Response, was mailed on 15 June 2001.

As stated in section 503 of the Manual of Patent Examining Procedure, a postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Applicant states that a complete copy of the executed declaration was originally filed on 15 June 2001 and provides a copy of the USPTO date-stamped postcard receipt.

The postcard identifies the application number, applicant name and docket number. Among the items listed on the postcard receipt are "Executed Declaration". The postcard is date-stamped by the USPTO "OIKE JUN 15 2001."

A review of the USPTO date-stamped, itemized postcard receipt indicates that the declaration was deposited with the USPTO on 15 June 2001. Applicant has now presented a copy of the papers originally filed on 15 June 2001 and provided a copy of the date-stamped postcard receipt. Thus, the evidence is sufficient to establish that the declaration was received in the USPTO on 15 June 2001 and that the postcard receipt indicating a date of 15 June 2001 was mailed by the USPTO. Accordingly, the Office accepts the copy of the papers as a replacement for the missing original documents with a deposit date of 15 June 2001. The Notification of Abandonment is vacated.

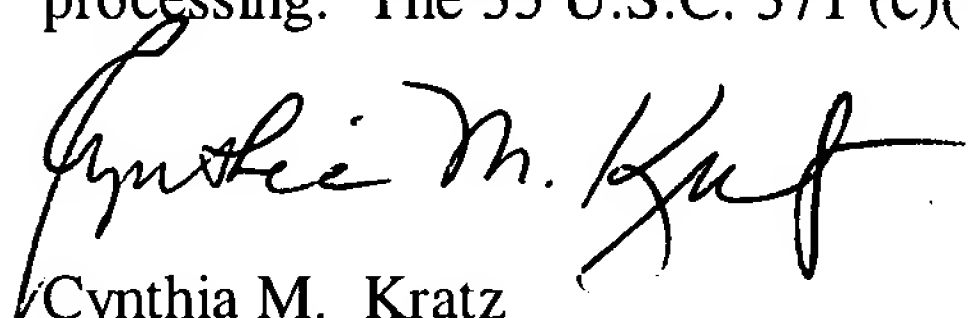
A review of the declaration reveals that the declaration is in the German and English language. As stated in 37 CFR 1.69(b), unless the text of any oath or declaration in a language other than English is in the form provided by the Patent and Trademark Office..., it must be accompanied by an English translation together with a statement that the translation is accurate. See also MPEP 602.06. The declaration is not the USPTO form; however, the declaration is accompanied by a statement that the translation is accurate. The declaration is acceptable and in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

The petition under 37 CFR 1.181 is GRANTED. The 08 July 2002 Notification of Abandonment is hereby VACATED.

The declaration originally filed on 15 June 2001 and resubmitted on 25 July 2008 is acceptable as filed.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date is 15 June 2001.



Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459